IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

Crl.MC.No. 85 of 2007()

CMP.5905/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II,PATHANAMTHITTA
CRIME NO.196/06 OF KOIPURAM POLICE STATION.

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PETITIONER:

CHACKO P.M.,
THANNICKAL HOUSE,
KUNNAMTHANAM,
MALLAPPALLY.

BY ADV. SRI.K.S.VIJAYAKUMAR

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. ASSISTANT EXCISE COMMISSIONER,
PATHANAMTHITTA.

3. THE SUB INSPECTOR OF POLICE,
KOIPURAM POLICE STATIN,
PATHANAMTHITTA.

BY P.P. SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 85 OF 2007

Dated this the 11th day of January, 2007

ORDER

The petitioner is aggrieved by the condition imposed by the learned Magistrate when a direction was issued under Sec.451 of the Cr.P.C. to release a vehicle to him.

2. The allegation raised against the petitioner appears to be serious. Petitioner's vehicle was allegedly found available in front of a toddy shop. There was contraband liquor and a fire arm inside the car. There was no person responsible for the car at or near the car when the car was seized.

3. The petitioner applied for release of the car to him. Notwithstanding the opposition of the respondent, the learned Magistrate directed release of the vehicle to the petitioner; but subject to a condition that bank guarantee for the value of the vehicle must be furnished by the petitioner to the learned Magistrate.

4. According to the petitioner, the condition imposed is too onerous and deserves to be modified. There is no

necessity to insist on imposition of the condition that bank guarantee must be produced. This is the only challenge raised in this Crl.M.C.

5. In the facts and circumstances of this case, I am not persuaded to agree that the discretion exercised by the learned Magistrate calls for or warrants any interference. The condition imposed by the learned Magistrate does, in the facts and circumstances of this case, appear to me to be absolutely reasonable, fair and just. No interference is warranted.

6. This Crl.M.C. is, in these circumstances, dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge